



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

PRICE DANIEL
ATTORNEY GENERAL

July 26, 1947

Hon. Roy Loventhal, Chairman
Livestock Sanitary Commission
2002 W. T. Waggoner Building
Fort Worth, Texas

Opinion No. V-316

Re: The expiration date
of the emergency ap-
propriation for the
Livestock Sanitary
Commission in H. B.
879, 49th Legisla-
ture.

Dear Sir:

In your letter of July 15, 1947, you request the opinion of this office upon the question therein contained, which for convenience we quote, as follows:

"On June 11th, 1945, the Legislature made available to this Department, through House Bill 879, an emergency appropriation in the amount of \$10,000.00.

"In the latter part of Section I of House Bill 879 you will find the following wording:

'And the said Commission shall be entitled to the use and to the expenditure of said monies hereby appropriated up to September 1st, 1947.'

"We are advised by Mr. Geo. H. Shepard, Comptroller of Public Accounts, that the Legislature is not authorized to appropriate money for State expenditure for a period exceeding two years from the date the appropriation is made available.

"It occurs to us that the two year limit applies to regular appropriations, and that it does not apply to appropriations for emergency purposes.

"Due to the fact that the close of our fiscal year is near and that a considerable amount of the \$2,400.00 yet unexpended in this appropriation is needed for materials and supplies, we will appreciate an early response."

It appears that you are under the impression that the restraint placed upon the Legislature by Section 6 of Article III of the Constitution of Texas, which reads as follows:

" . . . nor shall any appropriation of money be made for longer term than two years . . . "

applies only to regular appropriations, but not to appropriations for emergency purposes. A careful reading of H. B. No. 879, (Acts 49th Leg., 1945, p. 531) does not disclose that the Legislature treated this as an emergency appropriation. The act merely contained the usual emergency provisions suspending the constitutional rule requiring it to be read on three several days in each House in order that it take effect immediately from and after its passage. It is, therefore, of no legal significance that it may be thus termed an emergency appropriation.

It is manifest that the plain language of Section 6 of Article VIII of the Constitution, "nor shall any appropriation of money be made for longer term than two years," applies to all appropriations whether they be termed emergency appropriations or regular appropriations. This office has heretofore written several opinions stating what we conceive to be the correct rule of law, and it would serve no useful purpose to write extensively upon the same questions again. We enclose herewith a copy of Opinion No. 0-3639, approved June 15, 1941, the last paragraph of which answers your question. A more extended discussion is found in Opinion No. 0-3651, a copy of which is herewith enclosed. This opinion cites and quotes from several opinions of the courts of this State which confirm the rule that an appropriation may not be made by the Legislature for a longer term than two years under the express provisions of Section 6 of Article VIII of the Constitution.

House Bill No. 879, Acts of the 49th Legislature, 1945, was approved June 11, 1945, and became immediately effective on that date, and ceased to be effective at midnight on June 10, 1947, two years thereafter.

You are, therefore, respectfully advised that any balance remaining in this appropriation on June 11, 1947, is no longer available, notwithstanding the Appropriation Act provides, "and the said Commission shall be entitled to the use and to the expenditure of said money hereby appropriated up to September 1, 1947."

SUMMARY

Section 6 of Article VIII of the Constitution, which provides that no appropriation of money shall be made for a longer term than two years, applies to all appropriations whether termed emergency or regular appropriations. Hence an appropriation effective June 11, 1945, ceases to be effective on June 10, 1947, notwithstanding the Act contains a provision that "the Commission shall be entitled to use . . . the money . . . up to September 1, 1947."

Very truly yours,

ATTORNEY GENERAL OF TEXAS

By


L. P. Lollar
Assistant

APPROVED


ATTORNEY GENERAL

LPL:mmc:mrj